



**U.S. District Court
California Northern District (San Francisco)
CIVIL DOCKET FOR CASE #: 3:02-cv-04114**

IP Learn, LLC. v. DigitalThink, Inc et al
Assigned to: Hon. Phyllis J. Hamilton
Referred to: Hon. Bernard Zimmerman
Demand: \$
Lead Docket: None
Related Cases: None
Case in other court: None
Cause: 35:271 Patent Infringement

Date Filed: 08/27/02
Jury Demand: Both
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

**IP Learn, LLC., a California
Limited Liability Company**

represented by **Daniel S. Mount**
Mount & Stoelker
RiverPark Tower
Suite 1650
333 West San Carlos Street
San Jose, CA 95110-2711
408-279-7000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Lara J. Hodgson
Mount & Stoelker
RiverPark Tower
Suite 1650
333 West San Carlos Street
San Jose, CA 95110-2711
408-279-7000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Alfredo A. Bismonte
Mount & Stoelker
RiverPark Tower Suite 1650
333 West San Carlos Street
San Jose, CA 95110
408-279-7000
ATTORNEY TO BE NOTICED

V.

Defendant

DigitalThink, Inc, a Delaware Corporation

represented by **Alison C. Pauly**
Perkins Coie LLP
180 Townsend Street
3rd Floor
San Francisco, CA 94107-1909
415-344-7000
Fax : 415-344-7050
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jennifer S. Sim
Perkins Coie LLP
180 Townsend Street
3rd Floor
San Francisco, CA 94107-1909
415-344-7000
Fax : 415-344-7050
ATTORNEY TO BE NOTICED

Kenneth B. Wilson
Perkins Coie LLP
101 Jefferson Drive
Menlo Park, CA 94025
650/838-4300
Fax : 6508384350
Email: wilsk@perkinscoie.com
ATTORNEY TO BE NOTICED

KPMG Consulting, Inc., a Delaware Corporation

represented by **James G. Gilliland**
Townsend and Townsend and
Crew LLP
Two Embarcadero Center
8th Floor
San Francisco, CA 94111
415/576-0200
Fax : 415 576-0300
Email: jggilliland@townsend.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Robert A. McFarlane
Townsend and Townsend and
Crew LLP
Two Embarcadero Center
8th Floor
San Francisco, CA 94111
415 576-0200
Fax : 415-576-0300
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Brian A. E. Smith
Howrey Simon Arnold & White
525 Market Street
Suite 3600
San Francisco, CA 94105
415.848.4900
Fax : 415.848.4999
Email: smithbrian@howrey.com
TERMINATED: 08/04/2003
ATTORNEY TO BE NOTICED

Ian L. Saffer
Townsend and Townsend and
Crew LLP
1200 Seventeenth Street
Suite 2700
Denver, CO 80202
303-571-4000
ATTORNEY TO BE NOTICED

John Sabine Degroote
BearingPoint, Inc.
1676 International Drive
McLean, VA 22102
703-747-6972
ATTORNEY TO BE NOTICED

**Electronic Data Systems
Corporation, a Delaware
Corporation**

represented by **James G. Gilliland**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Robert A. McFarlane
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Brian A. E. Smith
(See above for address)
TERMINATED: 08/04/2003
ATTORNEY TO BE NOTICED

Ian L. Saffer
(See above for address)
ATTORNEY TO BE NOTICED

Counter-claimant

DigitalThink, Inc, a Delaware Corporation

V.

Counter-defendant

IP Learn, LLC., a California Limited Liability Company

Counter-claimant

Electronic Data Systems Corporation, a Delaware Corporation

represented by **Ian L. Saffer**
(See above for address)
ATTORNEY TO BE NOTICED

KPMG Consulting, Inc., a Delaware Corporation

represented by **Ian L. Saffer**
(See above for address)
ATTORNEY TO BE NOTICED

John Sabine Degroote
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counter-defendant

**IP Learn, LLC., a California
Limited Liability Company**

Filing Date	#	Docket Text
08/27/2002	1	COMPLAINT <i>summons issued; jury demand</i> against DigitalThink, Inc (Filing fee \$150 receipt number 5505871). Filed by IP Learn, LLC.. (bw,) (Entered: 08/27/2002)
08/27/2002	2	ADR SCHEDULING ORDER: Case Management Statement due by 1/8/2003. Case Management Conference set for 1/15/2003 at 01:30 PM. (bw,) (Entered: 08/27/2002)
08/27/2002		Summons Issued as to DigitalThink, Inc (bw,) (Entered: 08/27/2002)
09/19/2002		Received Document : <i>[Proposed] Stipulation Extending Time to Respond to Complaint</i> by DigitalThink, Inc, IP Learn, LLC., KPMG Consulting, Inc.. (tn,) (Entered: 09/20/2002)
09/24/2002	3	Declination to Proceed Before a U.S. Magistrate Judge by Electronic Data Systems Corporation & <i>Request for reassignment to a United States District Court Judge.</i> (tn,) (Entered: 09/24/2002)
10/01/2002	4	CLERK'S NOTICE of Impending Reassignment to a United States District Court Judge . (tn) (Entered: 10/02/2002)
10/02/2002	5	ORDER REASSIGNING CASE. Case reassigned to Judge Phyllis J. Hamilton for all further proceedings. Judge Edward M. Chen no longer assigned to case. Signed by Executive Committee on 10/2/02. (ci,) (Entered: 10/03/2002)

10/04/2002	6	STIPULATION AND ORDER extending time for defendants Electronic Data Systems Corporation and KPMG Consulting Inc. to respond to complaint until 10/18/02. Signed by Judge Hamilton on 10/4/02. (fb,) (Entered: 10/07/2002)
10/10/2002	7	CERTIFICATE OF SERVICE by Electronic Data Systems Corporation, KPMG Consulting, Inc. re [6] (fb,) (Entered: 10/16/2002)
10/16/2002	8	CERTIFICATE OF SERVICE by IP Learn, LLC. <i>re standing order</i> (fb,) (Entered: 10/18/2002)
10/17/2002		Received Document <i>First Amended Stipulation extending time to respond to complaint</i> by Electronic Data Systems Corporation, KPMG Consulting, Inc.. (fb,) (Entered: 10/21/2002)
10/18/2002	9	CASE MANAGEMENT SCHEDULING ORDER: Case Management Conference set for 1/16/2003 at 02:30 PM. Joint CMC statement due no less than seven calendar days before the conference. Signed by Judge Hamilton on 10/18/02. (fb,) (Entered: 10/21/2002)
10/21/2002	10	STIPULATION AND ORDER extending time to respond to complaint until 10/25/02. Signed by Judge Hamilton on 10/21/02. (fb,) (Entered: 10/22/2002)
10/25/2002		Received Order (<i>second amended stipulation regarding the complaint and proposed order</i>) by Electronic Data Systems Corporation, KPMG Consulting, Inc.. (fb,) (Entered: 10/28/2002)
10/28/2002	11	SECOND AMENDED STIPULATION AND ORDER regarding the complaint. Defendants Electronic Data Systems Corporation and KPMG Consulting Inc. are not required to respond to the complaint in this action and these defendants will respond to the amended complaint within ten days after service of the amended complaint. Signed by Judge Hamilton on 10/28/02. (fb,) (Entered: 10/29/2002)
10/31/2002	12	NOTICE re [11] by Electronic Data Systems Corporation, KPMG Consulting, Inc.. (fb,) (Entered: 10/31/2002)
11/01/2002	13	NOTICE of appearance by Perkins Coie LLP as counsel for

		<i>defendant DigitalThink Inc.</i> by DigitalThink, Inc. (fb,) (Entered: 11/04/2002)
11/22/2002	14	AMENDED COMPLAINT ; <i>Demand for Jury Trial</i> ; against DigitalThink, Inc, Electronic Data Systems Corporation, KPMG Consulting, Inc.. Filed by IP Learn, LLC.. (fb,) (Entered: 11/22/2002)
12/13/2002	15	ANSWER to Amended Complaint, COUNTERCLAIM against IP Learn, LLC. by DigitalThink, Inc. (fb,) (Entered: 12/16/2002)
12/13/2002	16	ANSWER to Amended Complaint , <i>Demand for Jury Trial</i> , COUNTERCLAIM against IP Learn, LLC. by Electronic Data Systems Corporation, KPMG Consulting, Inc.. (fb,) (Entered: 12/16/2002)
12/24/2002	18	ADR Certification re handbook and ADR options (ADR L.R. 3-5b) <i>filed by defendant DigitalThink Inc.</i> (fb,) (Entered: 12/27/2002)
12/26/2002	<u>17</u>	NOTICE of need of ADR Phone Conference (Bismonte, Alfredo) (E-FILED ERRONEOUSLY) Modified on 1/28/2003 (fb,). (Entered: 12/26/2002)
01/06/2003	19	MOTION for Pro Hac Vice <i>of John Sabine Degroote</i> filed by KPMG Consulting, Inc.. (ci,) (Entered: 01/09/2003)
01/06/2003		Proposed Order <i>Granting Application for Admission of John Sabine Degroote Pro Hac Vice</i> by KPMG Consulting, Inc.. (ci,) (Entered: 01/09/2003)
01/06/2003	20	ORDER by Judge Phyllis J. Hamilton granting [19] Motion for Pro Hac Vice of John Sabine Degroote (ci,) (Entered: 01/09/2003)
01/06/2003	21	MOTION for Pro Hac Vice <i>of Ian L. Saffer</i> filed by Electronic Data Systems Corporation, KPMG Consulting, Inc.. (ci,) (Entered: 01/09/2003)
01/06/2003		Proposed Order <i>Granting Application for Admission of Ian L. Saffer Pro Hac Vice</i> by Electronic Data Systems Corporation, KPMG Consulting, Inc.. (ci,) (Entered: 01/09/2003)

01/06/2003	22	ORDER by Judge Phyllis J. Hamilton granting [21] Motion for Pro Hac Vice of Ian L. Saffer (ci,) (Entered: 01/09/2003)
01/09/2003	23	ADR Certification re handbook and ADR options (ADR L.R. 3-5b) (vlh,) (Entered: 01/10/2003)
01/09/2003	24	CERTIFICATE OF SERVICE by IP Learn, LLC. re [23] (vlh,) (Entered: 01/10/2003)
01/09/2003	25	JOINT CASE MANAGEMENT STATEMENT filed by DigitalThink, Inc, Electronic Data Systems Corporation, IP Learn, LLC., KPMG Consulting, Inc.. (vlh,) (Entered: 01/10/2003)
01/10/2003	26	NOTICE re [22], [20] by Electronic Data Systems Corporation, KPMG Consulting, Inc.. (fb,) (Entered: 01/13/2003)
01/13/2003		ADR Phone Conference by RWS (tjs,) (Entered: 01/14/2003)
01/16/2003	27	Minute Entry: Initial Case Management Conference held on 1/16/2003 before Judge Hamilton. The parties have just made their ADR selection by picking their court mediators; they will be participating in court mediation with a completion date of 5/31/03. 1/30/03 any unscheduled trial dates will be agreed by way of stipulation and proposed order. The following trial dates were set: Case referred to ADR for court mediation to be completed by 5/31/03. Motions heard by 8/11/04; Jury Trial set for 1/31/2005 08:30 AM for 12 days. Pretrial Conference set for 12/9/2004 02:30 PM. Order to be prepared by Court.(Court Reporter Not Reported.) (fb,) (Entered: 01/21/2003)
01/17/2003	28	CASE MANAGEMENT AND PRETRIALORDER: Jury Trial 1/31/05 at 8:30 a.m. for no more than 12 days; Pretrial Conference 12/9/04 at 2:30 p.m.; Discovery disputes referred to a Magistrate Judge after motion is filed; Referred to ADR for court mediation to be completed by 5/31/03; Additional Orders: Markman Hearing 11/5/03 at 9:00 a.m. and Tutorial set for 10/3/2003 09:00 AM.. Signed by Judge Hamilton on 1/17/03. (fb,) (Entered: 01/22/2003)
01/27/2003	29	ANSWER TO COUNTERCLAIM of <i>Electronic Data Systems Corporation and KPMG Consulting</i> by IP Learn, LLC.. (fb,) (Entered: 01/28/2003)

01/27/2003	30	ANSWER TO COUNTERCLAIM <i>of Digital Think Inc.</i> by IP Learn, LLC.. (fb,) (Entered: 01/28/2003)
01/29/2003	31	ADR CLERK'S NOTICE OF APPOINTMENT OF MEDIATOR, Hon. Ellen S. James, dated 1/29/03. (af,) (Entered: 01/29/2003)
02/06/2003	32	STANDING ORDER for patent cases . Signed by Judge Hamilton on 2/6/03. (fb,) (Entered: 02/07/2003)
03/28/2003	33	JOINT CASE MANAGEMENT STATEMENT (<i>SUPPLEMENTAL</i>) filed by DigitalThink, Inc, Electronic Data Systems Corporation, IP Learn, LLC., KPMG Consulting, Inc.. (fb,) (Entered: 03/31/2003)
04/07/2003	34	<i>Letter to parties dated 4/3/03 setting further mediation session for 5/8/03 at 1:00 p.m.,</i> from Sandra Allen Gray, Case Manager to Hon. Ellen James. (af,) (Entered: 04/07/2003)
04/07/2003		Set/Reset Hearings: Further Mediation Hearing set for 5/8/2003 01:00 PM. (af,). (Entered: 04/07/2003)
04/07/2003	35	CERTIFICATION OF MEDIATION <i>session held on 4/1/2003, case did not settle, ADR process continuing, further mediation session set for 5/8/03. Filed by Mediator, Ellen S. James dated 4/1/03.</i> (af,) (Entered: 04/08/2003)
05/12/2003	36	<i>Letter to counsel rescheduling mediation session to 6/12/03 at 1:00 PM</i> from Mediator, Hon. Ellen S. James (Ret.). (af,) (Entered: 05/12/2003)
05/12/2003		Set/Reset Hearings: Mediation Hearing set for 6/12/2003 01:00 PM., in the offices of JAMS Two Embarcadero Center, Suite 1100, San Francisco. (af,) (Entered: 05/12/2003)
06/24/2003		Received Order <i>and stipulation to revise pretrial schedule and reset deadlines</i> by DigitalThink, Inc, Electronic Data Systems Corporation, IP Learn, LLC., KPMG Consulting, Inc.. (fb,) (Entered: 06/25/2003)
06/27/2003		Received Order (<i>proposed protective order</i>) <i>and stipulation regarding confidential information</i> by DigitalThink, Inc, Electronic Data Systems Corporation, IP Learn, LLC., KPMG

		Consulting, Inc.. (fb,) (Entered: 06/30/2003)
07/07/2003	37	STIPULATION to revise pretrial schedule and reset deadlines AND ORDER Factual Discovery cutoff by 9/6/2004. Claims Construction Hearing set for 5/19/2004 09:00 AM. Pretrial Conference set for 5/12/2005 02:30 PM. Tutorial Hearing set for 4/23/2004 09:00 AM. Expert reports 9/27/04; Responsive 3expert reports 10/25/04; Rebuttal expert reports 11/1/04; Expert discovery cutoff 11/22/04; Dispositive motions to be heard by 1/26/05; Meet and confer 3/25/05; Parties to file and serve the items as set forth in the 1/17/03 pretrial scheduling order 4/22/05; Last day to file and serve objections to pretrial disclosures 5/6/05;. Signed by Judge Hamilton on 7/7/03. (fb,) (Entered: 07/08/2003)
07/07/2003	38	STIPULATION AND PROTECTIVE ORDER regarding confidential information . Signed by Judge Hamilton on 7/7/03. (fb,) (Entered: 07/08/2003)
07/18/2003	39	MOTION to Compel <i>production of documents by DigitalThink Inc. and REQUEST for monetary sanctions</i> filed by IP Learn, LLC.. (fb,) (Entered: 07/22/2003)
07/18/2003	40	DECLARATION in Support re [39] of <i>Lara J. Hodgson</i> filed by IP Learn, LLC.. (Related document(s)[39]) (fb,) (Entered: 07/22/2003)
07/18/2003	41	CERTIFICATE/PROOF OF SERVICE by IP Learn, LLC. re [40], [39] (fb,) (Entered: 07/22/2003)
07/21/2003	42	ORDER of reference to Magistrate Judge for resolution of plaintiff's motion to compel production of documents and request for sanctions, and for all further discovery . Signed by Judge Hamilton on 7/21/03. (fb,) (Entered: 07/23/2003)
07/22/2003		CASE REFERRED to Magistrate Judge for Discovery Bernard Zimmerman. (wh,) (Entered: 07/22/2003)
07/23/2003	43	CLERK'S NOTICE scheduling telephonic conference re discovery dispute. Telephonic Conference set for 7/31/03 at 2:00 p.m. (fb,) (Entered: 07/24/2003)
07/23/2003		Set/Reset Hearings: Status Conference set for 7/31/2003 02:00

		PM. (fb,) (Entered: 07/24/2003)
07/23/2003	44	INITIAL DISCOVERY ORDER . Signed by Magistrate Judge Zimmerman on 7/22/03. (fb,) (Entered: 07/24/2003)
07/28/2003		Received Document <i>Letter to Magistrate Judge Zimmerman from Jennifer S. Sim in response to plaintiff IP Learn LLC's motion to compel production of documents</i> by DigitalThink, Inc. (fb,) (Entered: 07/29/2003)
07/28/2003	45	Letter <i>dated 7/28/03</i> from Jennifer S. Sim to Magistrate Judge Zimmerman in response to plaintiff IP Learn LLC's motion to compel production of documents. (fb,) (Entered: 07/29/2003)
08/01/2003	46	Minute Entry: Discovery Conference held on 7/31/2003 before Magistrate Judge Zimmerman. Parties to meet and confer by 8/8/03 (Court Reporter Not Reported.) (fb,) (Entered: 08/04/2003)
08/04/2003	47	NOTICE <i>of withdrawal of Brian A.E. Smith and appearance of Robert A. McFarlane and Mehrnaz Boroumand</i> by KPMG Consulting, Inc.. (fb,) (Entered: 08/04/2003)
10/01/2003	48	CLERK'S NOTICE. Telephonic Conference set for 10/8/2003 at 09:00 AM to discuss the discovery disputes currently at issue. (fb, Court Staff) (Entered: 10/02/2003)
10/03/2003	49	CERTIFICATE/PROOF OF SERVICE by Electronic Data Systems Corporation, KPMG Consulting, Inc. re [48] (fb, Court Staff) (Entered: 10/03/2003)
10/08/2003	50	Minute Entry: Motion Hearing held on 10/8/2003 before Magistrate Judge Zimmerman. PROCEEDINGS: Nondispositive motion--contested, Motion Hearing/Argument. NOTES: Discovery of 30(b)(6) witness to proceed in accordance with expressed by court. (Tape #T/C 28-03.) (fb, Court Staff) (Entered: 10/09/2003)
10/21/2003	51	Letter <i>dated 10/16/03</i> from Lara J. Hodgson to Clerk requesting a further case management conference. (fb, Court Staff) (Entered: 10/21/2003)
10/21/2003	52	CASE MANAGEMENT SCHEDULING ORDER: Further Case

		Management Conference set for 11/13/2003 at 02:30 PM. The parties shall file a joint case management conference statement no later than 10 days before the date of the conference. Signed by Judge Hamilton on 10/21/03. (fb, Court Staff) (Entered: 10/21/2003)
10/29/2003	53	JOINT CASE MANAGEMENT STATEMENT (<i>SECOND SUPPLEMENTAL</i>) filed by DigitalThink, Inc, Electronic Data Systems Corporation, IP Learn, LLC., KPMG Consulting, Inc.. (fb, Court Staff) (Entered: 10/30/2003)
10/31/2003	54	MOTION (ADMINISTRATIVE REQUEST) re 11/13/03 case management conference filed by Electronic Data Systems Corporation, KPMG Consulting, Inc.. (fb, Court Staff) (Entered: 10/31/2003)
10/31/2003		Received Order re [54] by DigitalThink, Inc, IP Learn, LLC., KPMG Consulting, Inc.. (fb, Court Staff) (Entered: 10/31/2003)
10/31/2003	55	STIPULATION AND ORDER re 11/13/03 case management conference. EDS and BearingPoint may appear at the 11/13/03 case management conference without their lead counsel present. Signed by Judge Hamilton on 10/31/03. (fb, Court Staff) (Entered: 11/03/2003)
11/06/2003	56	CERTIFICATE/PROOF OF SERVICE by Electronic Data Systems Corporation, KPMG Consulting, Inc. re [55] (fb, Court Staff) (Entered: 11/06/2003)
11/13/2003	57	Minute Entry: Further Case Management Conference held on 11/13/2003 before Judge Hamilton. The parties informed the Court they are very close to settling. They just need to finalize the terms and conditions. Matter was continued for a Further Case Management Conference set for 12/11/2003 02:30 PM. (To vacate hearing by 12/10/03 the court needs to receive notice of dismissal, or the court is to be contacted through its deputy, Ms. Moriyama). Nothing was done as to C-02-2636 DLJ.(Court Reporter Not Reported.) (fb, Court Staff) (Entered: 11/14/2003)
12/04/2003	<u>58</u>	***ERRONEOUSLY E-FILED*** STIPULATION of Dismissal <i>of entire action and [proposed] order</i> by IP Learn, LLC.. (Bismonte, Alfredo) (Filed on 12/4/2003) Modified on 12/5/2003 (fb, Court Staff). (Entered: 12/04/2003)

12/05/2003	59	CLERK'S NOTICE re: Stipulation and Proposed Order of Dismissal of Entire Action (document number 58); Documents E-Filed in a case not designated for ECF (fb, Court Staff) (Filed on 12/5/2003) (Entered: 12/05/2003)
12/08/2003	60	STIPULATED DISMISSAL and ORDER. Terminated Case. Signed by Judge Hamilton on 12/8/03. (fb, Court Staff) (Filed on 12/8/2003) (Entered: 12/15/2003)
12/18/2003	61	NOTICE by Electronic Data Systems Corporation, KPMG Consulting, Inc. re [60] Stipulation and Order (fb, Court Staff) (Filed on 12/18/2003) (Entered: 12/23/2003)